

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CRIMINAL ACTION NO. 3:21-CR-00224-KDB-SCR-1**

UNITED STATES OF AMERICA,

v.

RICHARD ANTHONY DAVIS, II

Defendant.

ORDER

THIS MATTER is before the Court on Defendant Richard Anthony Davis, II's motions for reevaluating his sentence on whether a departure pursuant to Amendment 829 was warranted because of his age when he committed prior offenses. (Doc. Nos. 47, 49). Having carefully reviewed the Defendant's motions and all other relevant portions of the record, the Court will deny the motions.

Defendant contends that the Sentencing Commission's recent amendment to U.S.S.G. §5H1.1 in Amendment 829 would affect his sentence. *Id.* at 1. Defendant was sentenced on April 7, 2023, and this Court considered all the characteristics of Defendant when tailoring a proper sentence under the Sentencing Commission's guidelines. Furthermore, Amendment 829 became effective on November 1, 2024, and is not retroactive. Additionally, the language in the amendment states "a downward departure also *may* be warranted due to the defendant's youthfulness at the time of the offense or prior offenses". It remains in the Court's discretion whether a departure is warranted.

IT IS, THEREFORE, ORDERED, that Defendant's motions for reevaluating his sentence on whether a departure was warranted pursuant to Amendment 829 (Doc. No. 47, 49), are **DENIED**.

SO ORDERED.

Signed: January 14, 2025

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell
United States District Judge

